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MR. GLEN BRUNER  
305 VINE  
ELWOOD, KS 66090

**COPY MAILED**

**JUL 17 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Glen Bruner :  
Application No. 10/735,396 :  
Filed: October 18, 2004 : ON PETITION  
Title of Invention: NIGHT :  
FISHMAN A ROD REEL HOLDER :

This is a decision on the Petition to Withdraw Holding of Abandonment for Failure to Receive Office Action, filed December 15, 2005. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 12, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned April 13, 2005. A Notice of Abandonment was mailed on November 30, 2005.

The instant petition

Applicant requests that the holding of abandonment in this application be withdrawn because Applicant did not receive the Office action. Applicant says that the main reason he did not

receive the Office action is that he moved on March 1, 2005, and he changed his address at the Post office, but he did not receive anything until 2005.

Applicable Law, Rules and MPEP

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.
2. A copy of the file jacket and docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

Accordingly, Applicant's assertion, that the Office action was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed.

Analysis

A review of Office records indicate that the final Office action was properly mailed to the correspondence address of record. Absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file reveals no irregularity in the mailing. Moreover, Office records indicate that the Office communication was mailed on January 12, 2005. Applicant moved on March 1, 2005, six weeks after we mailed the Office action. As such, the fact that Applicant moved in March should have no

bearing on whether Applicant received the Office action mailed in January.

Applicant should file a request for reconsideration of this petition and include the necessary statements and copies of his file jacket and docket records.

Further, Office records reveal that Applicants failed to file a Change of Correspondence Address. Applicant tells this Office in his petition that he has moved; however, Applicant is advised that he must file a separate paper, title the paper "Change of Correspondence Address", and file it separate from any other correspondence in order for the change of address to be effective. See, 37 CFR 1.4(c).

Conclusion

The petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Commissioner for Patents  
                    PO Box 1450  
                    Alexandria, VA 22313-1450

By FAX:           (571) 273-8300  
                    Attn: Office of Petitions

By hand:          Customer Service Window  
                    Randolph Building  
                    401 Dulany Street  
                    Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods

Attorney  
Office of Petitions